

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JERRY CLAY,

Plaintiff,

v.

GEORGE HAGA, et al.,

Defendants.

Case No. 1:20-cv-399

HON. JANET T. NEFF

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SUSAN ELWELL,

Counter-Claimant,

v.

JERRY CLAY,

Counter-Defendant.

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**ORDER**

This is a civil action. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation on January 29, 2021, recommending that the Court dismiss Plaintiff's claims against Defendant Susan Elwell for failure to prosecute pursuant to Rule 41(b); John and Jane Doe Defendants be dismissed for failure to prosecute; and the Court exercise its discretion not to enter a default judgment and dismiss Susan Elwell's counterclaim with prejudice. The Report and Recommendation was duly served on the parties. No objections have been filed. *See* 28 U.S.C. § 636(b)(1). Accordingly:

**IT IS HEREBY ORDERED** that the Report and Recommendation (ECF No. 87) is APPROVED and ADOPTED as the Opinion of the Court.

**IT IS FURTHER ORDERED** that Plaintiff's claims against Defendant Susan Elwell are DISMISSED for failure to prosecute pursuant to Rule 41(b).

**IT IS FURTHER ORDERED** that John and Jane Doe Defendants are DISMISSED for failure to prosecute.

**IT IS FURTHER ORDERED** that the Court exercises its discretion not to enter a default judgment and instead DISMISSES Susan Elwell's counterclaim with prejudice.

Dated: February 23, 2021

/s/ Janet T. Neff  
JANET T. NEFF  
United States District Judge